UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
JOHN F. KENNEDY FEDERAL BUILDING
BOSTON, MASSACHUSETTS 02203-0001

February 17, 1999

James Shafer, Remedial Project Manager
U.S. Department of the Navy
Naval Facilities Engineering Command
Northern Division
10 Industrial Highway
Code 1823, Mail Stop 82
Lester, PA 19113-2090

Re: Review of the Navy's Responses to EPA Comments regarding the Former Robert E. Derecktor Shipyard Feasibility Study

Dear Mr. Shafer:

EPA reviewed the Navy's responses dated December 28, 1998 and January 28, 1999 to EPA's November 6, 1998 letter on the *Former Robert E Derecktor Shipyard Feasibility Study* dated September 1998. The discussions held at the January 20, 1999 meeting were also considered. EPA received the revised Feasibility Study on February 10, 1999 and it is currently under review. Detailed comments are provided in Attachment A.

Based on our discussions and as summarized in your letter dated January 28, 1999, Executive Order 11990, Wetlands Protection are applicable ARARs for Alternatives 2, 3 and 4 (General Comment 5).

Please use the ARARs tables provided by EPA, and incorporate the ARAR-related comments addressed in this letter (see Specific Comments 76, 77, 90, 91 102, 103, 104, 106, and 114). Based on our discussions, the resolution to the ARARs issues listed in General Comment #10 are:

a. RCRA C regulations - With respect to the status of the contaminated sediments as hazardous waste, EPA provided the Navy with enforcement records that indicated that RCRA regulated materials were handled by the Derecktor facility and that violations concerning some of these materials occurred. Due to enforcement sensitivity of some of the records it is not appropriate to provide the Navy with complete documentation of all of the violations that occurred at the facility. However, it is EPA's position that there is sufficient documentation to conclude that at least some of the contamination present in the sediments is derived from the Derecktor facility. The primary significance of this is that the for the handling requirements during dredging operations RCRA would be "Applicable" rather than "Relevant and Appropriate." This does not materially change the remedy, but reflects the proper regulatory classification for the RCRA and State Hazardous Waste Standards as ARARs [This response also applies to Specific Comments 19, 29(a), 29(b), 30, 37, 46, 58, 64, 78(c)].

Since it is anticipated in the FS that some of the sediments could fail TCLP testing, EPA's maintains that this hazardous material will be mixed with non-hazardous material during dredging operations and should be considered mixed waste under the RCRA regulations [40 C.F.R. §261.3(iii)]. Therefore, the dredging and handling operations should be regulated by the relevant RCRA/RI Hazardous Waste Standards and that any material that fails TCLP testing should be disposed under applicable RCRA/RI Hazardous Waste Standards.

b. Wetlands and Flood plain ARARs - In our previous discussion and as summarized in you letter dated January 28, 1999, the Wetlands and Flood plain standards cited by EPA are location-specific ARARs for the Alternative 2, 3, and 4.

c. Clean Water Act, Section 304, AWQC's - In discussions with the Navy, EPA stated that AWQC's were "Relevant and Appropriate" chemical-specific ARARs for deriving sediment PRGs under a limited number of circumstances. For PRG's not derived from the AWQC (such as those based on toxicity tests), the AWQC in not an ARAR. AWQC's are promulgated standards and therefore cannot be TBCs. Any discussion of AWQC's as an ARAR should be limited to only those PRGs where the AWQC were used to derive the PRG (This comment also applies to Specific Comments 49, 67, 70, 71, 74, 75, 87, 101, and 105). Alternative 2 does not meet chemical-specific ARARs under Section 304 of the Clean Water Act nor the state's Water Pollution Control standards. The Alternative can continue to be discussed within the FS for comparison purposes, but it does not meet NCP requirements.

As a correction to EPA's original comment, the RI Rules and Regulations for the Investigation and Remediation of Hazardous Materials are *not* ARARs, because they include a specific exclusion (Rule 4.02) for NPL sites (General Comment #11). To date, the RI Remediation Rules and Regulations have not been applied as an ARAR to any other NPL site in the State. EPA understands that the State is planning on revising its regulations to remove this exclusion. If the regulations are re-promulgated to remove the exclusion, then the revised regulations could potentially become an ARAR is they are substantive to the remedy and are more protective than federal standards. If the application of the regulations should require modification of the remedy, the proper process to address the change would be through an Explanation of Significant Difference or ROD amendment (depending on the significance of the required change).

The need for potential habitat restoration under applicable wetlands and flood plain standards was addressed on January 20, 1999 and in your letter dated January 28, 1999. As discussed at the January 20, 1999 meeting and January 27, 1999 conference call, the marine FS report will be revised to state that if the selected action damages wetland resource areas (including intertidal areas) or special habitats (*e g.*, eelgrass beds) either directly or indirectly those areas will be mitigated by the Navy. With respect to the cost estimates, the text of the FS should clarify that the anticipated cost of habitat mitigation is minimal [General Comment #12 and Specific Comments 2, 3, 4, 25, 26, 27, 42, 59, 66, 78(a), 78(b), 84, 93, 100, 102, 108, and 111].

Owing to differences between where the on-shore and off-shore investigations are in the process, labeling the FS document as "off-shore" appears to be the most reasonable solution. On-shore portions are being addressed through source removal actions and we should discuss the additional work needed to appropriately close out the on-shore component (Specific Comment 5).

While it is agreed that the shellfish should be removed and relocated to the extent possible, the Navy's response is not sufficiently detailed. For example, it is mentioned that the shellfish will be raked; however, it is not clear whether this will occur via manual or mechanical means or how the shellfish will be managed. Additional information should be provided concerning the shellfish removal and relocation process.

As discussed in the January 20, 1999 meeting, a brief summary of previous investigations (*i e.*, video inspection and catch basin inspection and sampling of accumulated residue and debris at accessible sampling locations such as manholes or catch basins and outfall sampling) needs to be included in the FS to adequately address EPA's comment.

I look forward to working with you and the Rhode Island Department of Environmental Management toward the cleanup of Derecktor Shipyard. Please do not hesitate to contact me at (617) 918-1385 should you have any questions.

Sincerely,

Kymberlee Keckler, Remedial Project Manager
Federal Facilities Superfund Section

Attachment

cc: Paul Kulpa, RIDEM, Providence, RI
Melissa Griffin, NETC, Newport, RI
David Peterson, USEPA, Boston, MA
Cornell Rosiu, USEPA, Boston, MA
Jennifer Stump, Gannet Fleming, Harrisburg, PA
Ken Finkelstein, NOAA, Boston, MA
Steven Parker, Tetra Tech-NUS, Wilmington, MA
Mary Philcox, URI, Portsmouth, RI
David Egan, TAG recipient, East Greenwich, RI

ATTACHMENT A

Page	Comment
Figure 1-3A	Figure 1-3A clearly shows that the three fill areas were identified as Areas of Potential Concern by the Preliminary Assessment. This figure is included in the FS. Closure on this issue is needed in the FS.
p. 1-12, §1.3.3	The Navy's response does not provide a potential explanation regarding the reason why the water elevation in bedrock well MW05 was below the elevation of seawater during the water level survey in September 1996. The possibility that the bedrock is receiving water from the overburden would explain the low salinity in the bedrock well; however, it does not explain why the water level in the well would be below the elevation of seawater. This issue warrants further discussion.
p. 1-19, ¶1	The FS will be revised to include the correct acute and chronic values.
p. 2-5, §2.2.1.2	The Navy's response does not address the issue of the high concentrations of pesticides detected in the Central Shipyard area surface soils. The additional text to be added to the FS should also include a discussion of the elevated pesticides.
p. 3-22, bullet 3	This comment was resolved in the January 20, 1999 meeting and January 27, 1999 conference call. The marine FS report will be revised to state that if the selected action damages wetland resource areas (including intertidal areas) or special habitats (*e.g* , eelgrass beds) either directly or indirectly those areas will be mitigated by the Navy (*see also* page 3-25, bullet 1).
p. 4-3, Table 4-1	Given the levels of contaminants exceeding PRGs, monitoring alone is not sufficient to protect ecological receptors. EPA has not identified any other sites where leaving the levels of contaminants in place, with monitoring only, was found to be protective. Therefore, EPA's proposed change to the Table should be incorporated (see also Specific Comment 49).
p. 4-9, §4.2.3	The factor of 5 in identifying hot spots appears to be arbitrary. This approach is not recommended as it has no defensible basis.
p 4-15, ¶1	This mitigation issue was resolved in the January 20 meeting and the follow-up conference call (*see also* page 4-18, ¶4).
p. 5-19, ¶2	EPA's comment was meant to pertain to Alternative 1 rather than Alternative 2. Alternative 2 does have location-specific ARARs

p. 5-23, bullet 1

The last sentence should be removed because the levels of contaminants exceeding PRGs that would remain after hot spot dredging would pose a risk to ecological receptors. EPA has not identified any other sites where leaving the levels of contaminants and their associated risk in place, as proposed under this alternative, was found to be protective (see also Specific Comment 113).